

## **REMARKS**

Favorable reconsideration of this application is requested in view of the above amendments and following remarks. Claim 1 is amended. Support for the amendments can be found at least on page 4, line 27 – page 6, line 23 and Fig. 1. No new matter was added. Claims 1-8 remain actively pending in the case. Reconsideration of the claims is respectfully requested.

In paragraph 5 on page 3 of the Office Action, claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kaplan (6,211,484) and further in view of Froehlich et al. (A Near-field Scanning Optical Microscope for Analysis of Magneto-Optic Media).

As admitted by the Office Action, Kaplan fails to teach or suggest at least reading said micro-discrete indicia using near-field optics as required in claim 1. It follows that Kaplan also fails to teach or suggest at least locating a user-created unique micro-discrete indicia on said gemstone.

Froehlich fails to remedy the deficiencies of Kaplan as Froehlich fails to teach or suggest at least locating a user-created unique micro-discrete indicia using near-field optics. Rather, Froehlich discloses using near-field scanning optical microscopy (NSOM) to study domain wall jaggedness of magnetic-optic (MO) material. More specifically, Froehlich studies the depolarization effects due to disk grooves and surface roughness. *See* page 84, second full paragraph. However, Froehlich does not disclose locating user-created unique micro-discrete indicia using near-field optics.

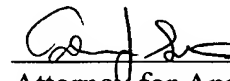
Further, Froehlich fails to remedy the deficiencies of Kaplan as Froehlich fails to teach or suggest at least reading said user-created unique micro-discrete indicia using near-field optics. Rather, Froehlich discloses examining magnetic domain structures on magnet-optic (MO) media using a tapered fiber near-field probe, i.e., materials analysis. *See* Fig. 1 and page 84, second full paragraph. Froehlich discloses positioning the probe over the MO material wherein “[a]tomic forces between the tip and sample perturb the amplitude and phase of . . . [a] dither, which can be detected and used as a feedback signal to regulate tip position.” *See* page 83, third paragraph. However, Froehlich does not teach, expressly or inherently, reading user-created micro-discrete indicia using near-field optics.

Therefore, in view of the above remarks, Applicants' claim 1 is patentable over the cited references. Because claims 2-8 depend from claim 1 and include the features recited in the independent claim, Applicants respectfully submit that claims 2-8 are also patentably distinct over the cited references. Nevertheless, Applicants are not conceding the correctness of the Office Action's rejection with respect to such dependent claims and reserve the right to make additional arguments if necessary.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Deposit Account No. 05-0225.

Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Applicant(s)  
Registration No. 53,950

Thomas J. Strouse/ml  
Rochester, NY 14650  
Telephone: 585-588-2728  
Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.